IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 15963 of 2007(A)

PETITIONER:

RITA JOSEPH, W/O.K.J.JOSEPH,
AGED 53 YEARS, KARIMUNDAKKAL HOUSE, KANATHUR
TEMPLE ROAD, PALLIKUNNU, KANNUR.

BY ADV. SRI.G.SHRIKUMAR
SRI.MOHAN JACOB GEORGE

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE SECRETARY TO REVENUE DEPARTMENT, GOVERNMENT OF KERALA.**

3. **DISTRICT COLLECTOR, WYANAD DISTRICT.**

4. **TAHSILDAR, VYTHIRI TALUK.**

BY GOVERNMENT PLEADER SMT.ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.15963/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE POWER OF ATTORNEY DT.9.9.05.

EXT.P2:- COPY OF THE DEED NO.1578/77 OF VYTHIRI SUB REGISTRAR'S OFFICE EXECUTED BY THE LR'S OF SRI.BALAKRISHNAN NAIR TO WHOM THE PURCHASE CERTIFICATE NO.1277/76 IS ISSUED.

EXT.P3:- COPY OF THE ASSIGNMENT DEED NO.588/03 DT. 7.6.2003.

EXT.P4:- COPY OF THE TAX RECEIPT NO.4337814 DT.6.10.05.

EXT.P4(a):- COPY OF THE POSSESSION CERTIFICATE NO.670/03 ISSUED BY THE VILLAGE OFFICER, KUNNATHIDAVAKA VILLAGE, VYTHIRI TALUK DT.9.12.03.

E.XT.P5:- COPY OF THE BUILDING PERMIT ISUED BY THE VYTHIRI GRAMA PANCHAYATH DT. 28.1.04.

EXT.P5(a):- COPY OF THE RECEIPT ISSUED BY THE GRAMA PANCHAYATH EVIDENCING RECEIPT OF TAX FOR BUILDING NO.4/715 F& G DT. 30.3.07.

EXT.P6:- COPY OF THE NOTICE DT.23.5.07 IS SERVED ON THE PETITIONER DIRECTING TO VACATE THE LAND WITHIN 48 HOURS.

EXT.P7:- COPY OF THE GOVERNMENT NOTIFICATION NO.14046/LEG.A1/2001/LAW DT.2.4.07.

/TRUE COPY/

tss

S. SIRI JAGAN, J.

W.P.(C)NO. 15963 OF 2007

DATED THIS THE 12th DAY OF JUNE, 2007

JUDGMENT

The petitioner challenges Ext.P6 notice, whereby the petitioner has been directed to vacate the premises mentioned in Ext.P6 on the ground that the said land is Government land. The petitioner's contention is that the land belongs absolutely to her as evident from the documents produced by the petitioner. However, the petitioner was not given an opportunity to prove her case since Ext.P6 has not been preceeded by any show cause notice or hearing.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader. Nothing has been brought to my notice to show that Ext.P6 has been preceeded by a show cause notice or hearing. That being so, the petitioner could not have been evicted simply by giving a notice like Ext.P6. Therefore, I direct that the petitioner shall be evicted from the property in question, only after issuing a notice to the petitioner granting her an opportunity to adduce evidence in support of her case, affording an opportunity of being

heard to her and passing a speaking order. This shall be done by the 4th respondent as expeditiously as possible.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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